



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**

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*Your Home  
Is Our  
Business*

February 22, 2012

To: Senator Steve Cassano, Co-Chairman  
Representative Linda M. Gentile, Co-Chairman  
Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: House Bill 5035, An Act Reducing Mandates for Municipalities  
House Bill 5158, AAC the Assessment of Buildings under Construction

**The HBA of Connecticut is a professional trade association with almost 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.**

Section 2 of HB 5035, and HB 5158, would overturn the trial court decision in Kasica v. Columbia (attached is a summary of the court decision). We believe the decision is a correct interpretation of the law and is sound tax policy. **Therefore, we oppose section 2 of HB 5035, and HB 5158, because they would result in an enormous financial burden on certain home builders at a time when the industry is suffering its worst housing depression in memory.**

**Alternatively, we seek a carve out for distinct and reasonable tax assessment treatment of smaller housing construction projects that will have miniscule financial impact on municipalities, yet be financially significant to certain individual home builders.**

The proposed legislation arises out of a tax appeal case, Kasica v. Columbia, in which the trial court ruled tax assessors cannot raise the valuation of homes or buildings under construction until a Certificate of Occupancy (C.O.) is issued. However, it's only a trial court decision and many towns are ignoring the court ruling, saying it's applicable to only Columbia, which is legally correct.

Housing developers have been experiencing severe financial pressures as they face substantially decreased absorption rates for selling homes and must carry completed yet unsold homes for extended periods in this economic downturn. Almost all market-rate housing today is built after a home buyer is found. However, through no fault of their own, builders experience lost buyers because of the buyer's loss of a job, difficulty in obtaining financing, or the inability of the buyer to sell their existing home. Thus, when tax assessors raise the valuation of homes under construction – or even completed yet unsold homes – builders face greatly higher tax bills for unoccupied homes. These unnecessary higher tax burdens create huge disincentives to pursue housing development.

*"Leading Our Members to Professional Excellence."*

**Serving the Residential Development & Construction Industry Through Advocacy, Education & Networking**

**Higher tax assessments on homes under construction (or even completed homes) prior to issuance of a C.O. or the home's use is a big financial hit to a small business that has no income until a home sale closes and transfers to a buyer. And, higher assessments are unnecessary because municipalities do not have any expenses for these homes under construction or waiting to be sold because they are not providing any municipal services (because there are no people in these homes to serve).**

We understand the financial hit to municipalities if the trial court decision in Kasica v. Columbia is codified in statute. But the financial hit to municipalities comes from commercial construction projects. See the spreadsheet of claimed lost tax assessments provided by the tax assessors (attached), to which we added the total number of new housing permits. There is no correlation between the revenue loss estimates and the # of housing permits issued. For 15 municipalities where 0 to only 2 housing permits were issued, a total of 17 homes were permitted in 2011, yet revenue loss is reported to be \$641,280 for these 15 towns. Clearly, the vast bulk of revenue loss is derived from non-residential construction. **Therefore, we respectfully request that a carve-out for different treatment be provided to home builders most vulnerable to and adversely impacted by higher assessments while building or holding onto homes.**

**Our limited 1-4 family residential carve-out to the more broadly applicable Kasica v. Columbia tax appeal decision (see attached substitute language) would:**

1. **have minimal revenue impact on municipalities** because most of the "under-construction" assessment dollars they receive is from commercial construction;
2. **reduce uncertainty** over real estate tax burdens faced by home builders;
3. **clarify existing law and make it uniform** across all municipalities;
4. **tie the collection of higher taxes to the provision of municipal services** to people living in homes;
5. **remove a punishing tax on home builders** that occurs in a down housing market, yet does not arise for builders or municipalities in a strong housing market (because homes are built and sold more quickly);
6. **remove a strong disincentive to undertake new home projects** in a down housing market, exacerbating the down market (just what we should not want to do); and
7. **continue a town's ability to capture retroactively the increased value of a home back to the date of a certificate of occupancy (C.O.) or when it's used for its intended purpose, whichever occurs first.** Our proposal also places an outside time limit of 18 months after issuance of a building permit so homes under construction do not linger too long without having the assessment raised. Ideally, this time frame should be longer than 18 months to provide relief to builders who most need it and to property owners building their own home.

**We respectfully request the Planning & Development Committee, Finance Committee and the Governor to substitute for, or add the language of our proposal to, section 2 of RB 5035, and HB 5158. Thank you for considering our plea for relief on this important issue.**

## **Kasica v. Town of Columbia and Need for Legislation**

**Issue:** When can municipalities raise the valuation of property for tax assessment purposes while a home (or any other building) is being constructed?

**Summary:** In Kasica v. Columbia, the town assessor increased the tax assessment during construction of a 9,620 sq. ft home on a 3.44 ac. lot (part of a larger 186 acre parcel owned by Gene Kasica). When fully completed, the value is estimated to be \$1.6 to 1.7 million. Mr. Kasica appealed the assessment. He won in trial court, with the court finding, based on its interpretation of state statutes, that “the assessor should not have placed an assessment on the partially constructed house until its completion and the issuance of a certificate of occupancy.” The town is appealing the decision.

**State Statutes & Court’s Interpretation:** Two state property tax statutes are at issue, as follows: **Section 12-53a(a)** states, “Completed new construction of real estate completed after any assessment date shall be liable for the payment of municipal taxes from the date the certificate of occupancy is issued or the date on which such new construction is first used for the purpose for which same was constructed, whichever is earlier, ....” **Section 12-55(b)** states, “The assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last-preceding grand list, ....”

The town in the Kasica v. Columbia tax appeal claims it has the authority under 12-55(b) to raise the valuation of a home under construction at the time of tax revaluation. Mr. Kasica claims the town is bound by the limitations in 12-53a(a) and must wait for the home to obtain a C.O.

**The trial court held for the property owner**, adopting the reasoning in a 2009 tax appeal case (Evans v. Guilford) regarding an assessor’s authority to make interim assessments. The judge in Kasica explained: “In Evans, the court discussed how ‘[t]he assessor could not legally increase the assessed value of the property based solely on the new construction because interim assessments for new construction are governed by [sec.] 12-53a(a). It is a well-settled principle of [statutory] construction that specific terms governing [a] given subject matter will prevail over general language of ... another statute which might otherwise prove controlling. Here, the specific terms of [sec.] 12-53a(a), governing new construction, prevail over the broad terms of [sec.] 12-55. Because an interim assessment under [sec.] 12-53a(a) cannot commence until after new construction is completed, the assessor acted outside of his statutory mandate by performing an interim assessment when the property was 69 percent completed.’”

The trial court further explained, “If, as the town argues, the assessor is required to include ‘any property’ within the town on the date of revaluation, pursuant to [sec.] 12-55(b), without qualification, the language in [sec.] 12-53a(a), providing for interim assessment on new construction, would be superfluous.”

**Legislation:** Many towns are ignoring the trial court decision, saying it applies to only the town of Columbia. Rather than wait for the outcome of an uncertain appeal, the statutes should be clarified to codify the trial court decision, so that towns do not confuse their different tax authorities. Given the new economic realities, where builders must hold homes for a lengthy period before closing a sale, adopting the trial court’s rationale is now more critically important. And, towns provide very limited services to such properties before a C.O. is issued or people move into the home.

**An Act Clarifying the Real Estate Tax on  
One to Four Family Homes Under Construction**

Be it enacted by the Senate and House of Representatives in General Assembly  
convened:

1 Section 1. Subsection (a) of section 12-53a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective upon passage*):

3 (a) Completed new construction of real estate completed after any assessment date shall  
4 be liable for the payment of municipal taxes from the date the certificate of occupancy is  
5 issued or the date on which such new construction is first used for the purpose for  
6 which same was constructed, whichever is the earlier, prorated for the assessment year  
7 in which the new construction is completed. Said prorated tax shall be computed on the  
8 basis of the rate of tax applicable with respect to such property, including the applicable  
9 rate of tax in any tax district in which such property is subject to tax following  
10 completion of such new construction, on the date such property becomes liable for such  
11 prorated tax in accordance with this section. Notwithstanding any provision of the  
12 general statutes or any special act, municipal charter or home rule ordinance, land,  
13 including individual parcels, lots in any approved subdivision, or land that is the  
14 subject of any approved site plan, on which one to four family residential buildings are  
15 intended to be constructed, under construction or completed, shall be assessed  
16 exclusive of such residential buildings prior to (1) the date a certificate of occupancy is  
17 issued for such building, (2) the date on which such new construction is first used for  
18 the purpose it was constructed, or (3) eighteen months after a building permit is issued  
19 for the construction of such building, whichever is the earlier.

Housing permits as reported by DECD. 128 municipalities report housing permits on a monthly basis – numbers shown are the 2011 annual totals for these 128 municipalities. 41 municipalities report housing permits on an annual basis and these (shown blank in the right column) are reported by DECD in April or May of each year.

Total New  
Housing  
Permits  
2011

2011				
TOWN	Incomplete Assessment	Revenue Loss		
Andover		\$16,325.00		0
Ansonia				1
Ashford	1,327,800	\$33,991.68		4
Avon	5,000,000	\$125,200.00		27
Barkhamsted	356,700	\$8,567.93		
Beacon Falls	411,335	\$11,517.38		
Berlin	13,405,035	\$328,423.36		78
Bethany				
Bethel	5,720,240	\$132,938.38		54
Bethlehem	9,844,700	\$248,283.33		
Bloomfield	4,838,540	\$163,058.80		
Bolton	1,550,000	\$45,229.00		5
Bozrah				3
Branford				
Bridgeport				126
Bridgewater	750,000	\$12,187.50		
Bristol	131,024,220	\$3,569,099.75		21
Brookfield	8,440,750	\$168,308.56		
Brooklyn	563,300	\$12,606.65		18
Burlington	3,973,060	\$106,279.36		11
Canaan				1
Canterbury	7,897,500	\$167,427.00		5
Canton	2,000,000	\$52,160.00		10
Chaplin	3,260,700	\$98,310.11		0
Cheshire	4,400,000	\$118,102.00		58
Chester				
Clinton	3,379,370	\$84,281.49		7
Colchester		\$90,475.00		18
Colebrook	754,800	\$19,625.00		0
Columbia	1,441,200	\$33,940.26		6
Cornwall	402,750	\$5,034.00		1
Coventry	2,100,000	\$56,700.00		18
Cromwell	4,110,420	\$118,000.00		27
Danbury		\$900,000.00		103
Darien		\$150,000.00		
Deep River	4,997,650	\$121,342.94		2
Derby				
Durham				4
East Granby	168,627	\$4,552.93		9
East Haddam	2,614,010	\$55,155.61		15
East Hampton	9,517,207	\$244,401.88		11
East Hartford	118,650	\$4,083.93		
East Haven	18,800	\$499.89		16
East Lyme	5,276,110	\$102,736.41		28
Eastford	1,214,770	\$25,813.86		2
Easton	761,108	\$17,467.43		2
East Windsor	3,842,670	\$93,667.39		33
Ellington		\$113,186.98		108
Enfield	415,230	\$9,915.69		
Essex	5,376,700	\$96,673.07		0

Total New  
Housing  
Permits  
2011

Fairfield	56,783,860	\$1,275,933.33		48
Farmington	7,415,050	\$157,718.11		22
Franklin	516,410	\$10,607.06	18.73	17
Glastonbury	15,747,100	\$473,200.36		36
Goshen	3,931,270	\$58,969.05		1
Granby	5,979,750	\$179,990.48		4
Greenwich	311,000,000	\$3,144,521.00		59
Griswold	2,824,500	\$52,902.89		
Groton		\$3,042,300.00		14
Guilford				20
Haddam	2,727,150	\$76,987.44		9
Hamden	963,350	\$33,492.89		11
Hampton	0	\$0.00		7
Hartford	118,650	\$4,083.93		45
Hartland				
Harwinton	1,776,072	\$42,448.00		6
Hebron	220,290	\$6,665.98		
Kent	2,313,300	\$33,010.79		3
Killingly	850,000	\$16,320.00		17
Killingworth				
Lebanon	15,000	\$342.00		6
Ledyard	1,062,671	\$29,680.40		10
Lisbon				6
Litchfield		\$495,378.57		
Lyme	497,731	\$67,193.62		0
Madison				15
Manchester	2,529,300	\$71,275.67		13
Mansfield		\$55,135.00		11
Marlborough	202,248	\$5,501.15		2
Meriden				12
Middlebury	8,697,900	\$243,541.20		
Middlefield	339,400	\$9,557.50		4
Middletown				26
Milford	6,700,000	\$174,200.00		96
Monroe				6
Montville				7
Morris	1,535,690	\$31,988.00		1
Naugatuck				7
New Britain	22,463,700	\$822,845.33		
New Canaan	10,000,000	\$138,530.00		25
New Fairfield				
New Hartford	561,149	\$13,579.81		7
New Haven				320
Newington	425,030	\$12,759.40		5
New London				28
New Milford			26.54 check revenue loss	15
Newtown	4,400,000	\$107,228.00		22
Norfolk				1
North Branford	800,000	\$22,200.00		
North Canaan				2
North Haven	8,584,380	\$227,829.45		11
North Stonington			30.2	3

Total New  
Housing  
Permits  
2011

Norwalk	11,500,000	\$276,000.00		67
Norwich	38,805,000	\$1,118,748.15		8
Old Lyme				
Old Saybrook	9,857,400	\$138,595.04		25
Orange	24,496,500	\$739,794.30		
Oxford	8,046,900	\$186,768.55		15
Plainfield	3,504,780	\$72,864.38		14
Plainville				16
Plymouth	3,590,860	\$113,112.09	13.94	6
Pomfret	1,044,720	\$24,091.24		3
Portland	925,000	\$27,000.00		9
Preston				6
Prospect				
Putnam	12,000,000	\$167,280.00		8
Redding	564,620	\$12,822.00		
Ridgefield	450,000	\$150,000.00		12
Rocky Hill	8,024,450	\$196,599.03		17
Roxbury	5,285,440	\$62,896.74		
Salem				4
Salisbury		\$1,588,470.00		
Scotland	5,000	\$150.35		0
Seymour	2,128,200	\$58,780.00		17
Sharon	2,189,200	\$248,474.20		4
Shelton				35
Sherman	2,025,000	\$32,000.00		
Slimsbury				13
Somers	1,312,200	\$29,025.86		13
Southbury			(4 mill rates)	7
Southington	10,332,070	\$250,862.66		69
South Windsor	5,346,000	\$153,857.88		12
Sprague				1
Stafford	2,121,650	\$61,442.98		
Stamford	75,575,790	\$1,301,545.42		207
Sterling	1,243,670	\$26,253.87		
Stonington	27,194,000	\$425,042.22		21
Stratford	25,160,310	\$859,224.59		11
Suffield	7,460,530	\$180,321.01		24
Thomaston	734,650	\$22,400.00		
Thompson				
Tolland	1,715,400	\$50,998.84		5
Torrington	876,911	\$28,499.61		4
Trumbull	17197600	\$429,940.00		9
Union	241,820	\$5,573.95		2
Vernon	10,811,090			90
Voluntown				3
Wallingford				44
Warren	3,510,710	\$43,006.20		2
Washington	2,322,710	\$25,549.81		
Waterbury	129,400	\$54,113.01		19
Waterford				14
Watertown	3,321,100	\$77,448.05		17
Westbrook	4,000,000	\$67,840.00		7

Total New  
Housing  
Permits  
2011

West Hartford	2,196,553	\$33,455.90		43
West Haven				
Weston	11,500,000	\$276,000.00	no cip reportable	
Westport		\$80,000.00	combined two districts	72
Wethersfield	12,100,100	\$380,185.14		
Willington	1,200,460	\$28,306.85		2
Wilton	7,372,820	\$153,723.30		
Winchester	12,500,000	\$318,000.00		4
Windham	2,698,640	\$84,923.36		18
Windsor	7,177,240	\$201,178.00	18.42 dbl ck revenue loss	
Windsor Locks				
Wolcott	4,579,520	\$103,909.31		13
Woodbridge	2,000,000	\$67,000.00		
Woodbury	7,785,940	\$167,000		6
Woodstock	1,680,900	\$30,962.18		7
TOTAL:	1,141,097,757	\$30,135,522.02		2,837